



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 5-480 –Radiation Protection Regulations Virginia Department of Health (State Board of Health) March 22, 2005

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The State Board of Health (board) proposes to update the existing outdated radiation protection regulations. Due to numerous updates, the board proposes to replace the entire regulation with a new set of rules. However, all the procedural changes and standards being proposed are currently being followed and enforced in practice. Thus, upon promulgation of the proposed regulation, no significant economic impact is expected, other than the benefits that could result from updating the regulations to reflect current practice.

Estimated Economic Impact

These regulations contain limits, registration and inspection requirements, and procedural rules to prevent human exposure to dangerous levels of radiation from medical and industrial applications and research and educational activities. Approximately 220 facilities that possess naturally occurring or artificially produced radioactive materials and that do not fall under federal regulations are subject to these regulations. In addition, approximately 17,000 X-ray machines are certified, registered, and inspected under these rules.

These regulations were promulgated in 1988 and have not been updated since. However, many of the standards and requirements have changed since then. These changes have been implemented in practice, but not in the regulation. The purpose of the proposed rulemaking is to replace the entire regulation with up-to-date standards and requirements that are currently being followed in practice. The proposed major changes include incorporating 1) up-to-date radiation protection standards of the U.S. Nuclear Regulatory Commission, 2) requirements of the federal Mammography Quality Standards Act of 1992, 3) standards included in the Suggested State Regulations of the Conference Radiation Control Program Directors, 4) legislative requirements for mammography machines introduced by the 2000 General Assembly, and 5) legislative requirements authorizing civil penalties for violations of standards introduced by the 1999 General Assembly.

According to the Virginia Department of Health (the department), all the proposed changes are already being followed in practice. Thus, the promulgation of the proposed standards and procedures by themselves is not expected to create a significant economic impact. However, updated regulations are expected to better inform the public and the regulants about rules that are being enforced in practice and to reduce the potential for confusion. This, in turn, is expected to reduce communication costs for both the department and regulated entities. Also, regulations that are consistent with standards and procedures followed in practice should minimize potential litigation costs when outdated regulations are challenged.

In this isolated case, the department's approach to implementing new standards or procedural changes without going through the regulatory process and updating the regulations to reflect what is already been in practice for the last 17 years is problematic as the agency has long been operating contrary to its regulation. The lack of authority to enforce the new provisions combined with discrepancies between regulations and procedures followed in practice creates the potential for costly litigation expenses. However, this does not mean that the department would not forgo some benefits if these changes were implemented in practice only after going through the usual regulatory process, as timely response to some changes in radiation standards is probably valuable. One way to reduce potential costs associated with delay would be to more frequently update the radiation protection regulations.

Businesses and Entities Affected

The proposed regulations apply to approximately 220 facilities that possess naturally occurring or artificially produced radioactive material and that are not subject to federal regulation and approximately 6,000 entities owning about 17,000 X-ray machines.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed regulations are not anticipated to have a significant effect on employment as they are already being followed in practice.

Effects on the Use and Value of Private Property

Similarly, no significant effect on the use and value of private property is expected upon promulgation of the proposed rules.